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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,738	11/09/2001	Clark H. Gates II	PGATEC-EB	6062

7590 08/27/2003
Thompson E. Fehr
Suite 300
Goldenwest Corporate Center
5025 Adams Avenue
Ogden, UT 84403

EXAMINER

MEREK, JOSEPH C

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/008,738

Applicant(s)

GATES, CLARK H.

Examiner

Joseph C. Merek

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/11/03.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/09/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 11 June 2003 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

The amendment filed 6/11/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: There is no support for the "a second end of the lateral surface is connected to a first end of the connecting wall" or "at least when the box has a rectangular shape". The first issue relates to the how the connecting wall is seen. The connecting wall is shown as the parts or segments 1503 on either end of the box. The amendment makes no sense when taken in light of the original claims, drawings, and disclosure. The only way the original disclosure make sense are to view the connecting wall as now shown by applicant. However, there is no support for applicant's present view of the connecting wall as shown in Fig. 7. The amended specification represents new matter in light of the

original claims, drawings and disclosure. The second change to the specification implies that the connecting wall may not be in the same plane for other shapes. There is no support for the connecting wall being out of the plane of the lateral surface.

Applicant is required to cancel the new matter in the reply to this Office Action.

Drawings

Proposed drawing correction filed on 6/11/03 has been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of the connecting wall which was disclosed as including the wall segments 1503 on either side of the box included the thin wall structure between the two sections or segments as seen in Proposed Fig. 7. It is clear that the box has this structure in the sidewalls. However, it is not clear that applicant had intended to show the connecting wall to include the thin sections 1502 as seen in proposed Fig. 7. The proposed corrections to Fig. 1-4 will be approved if submitted without Fig. 7.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the connecting wall having a first end connected to the lateral surface" must be shown or the feature(s) canceled from the claim(s). Fig. 3 shows two connecting walls. A box with a single connecting wall is not shown. Since Fig. 7 has been disapproved the previous drawing objection is maintained.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13-15, 17, 19-21, and 23 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claims 13 and 19, the claims set forth a connecting wall. However, the drawings show to separate connecting walls one on each side of the rear wall. The claims state that the connecting wall has a first end that is attached to the lateral surface and projects generally outward from the lateral surface. The second connecting wall is not specified. The claim does not set forth to what part of the lateral surface is attached. The claim sets forth that a front portion is attached and projecting generally forward from the sides and the second end of the connecting wall. It is not clear how the front portion is connected to only the one connecting wall. Moreover, the first end of the front portion only requires three sides connected to the connecting wall. It is not clear how the front portion is attached to the connecting wall on three surfaces. Regarding claim 13 and 19, there is no

support for the "lateral surface having a first end" or the "connecting wall having a first end attached to a second end of the lateral surface". The lateral surface was never shown as having ends. Moreover, the lateral surface having first and second ends does not make sense in light of the original drawings, claims, and disclosure. This is a new matter rejection. The remaining claims are included since they stem from rejected claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-15, 17, 19-21, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 13 and 19, the claims set forth a connecting wall. However, the drawings show to separate connecting walls one on each side of the rear wall. The claims state that the connecting wall has a first end that is attached to the lateral surface and projects generally outward from the lateral surface. The second connecting wall is not specified. The claim does not set forth to what part of the lateral surface is attached. The claim sets forth that a front portion is attached and projecting generally forward from the sides and the second end of the connecting wall. It is not clear how the front portion is connected to only the one connecting wall. Moreover, the first end of the front portion only requires three sides connected to the connecting wall. It is not clear how the front portion is attached to the connecting wall on only three surfaces. It is not clear what is being claimed. The remaining claims are included since they stem from rejected claims.

Response to Arguments

Applicant's arguments filed 6/11/03 have been fully considered but they are not persuasive. Applicant's sole argument regarding the claim rejections is that the new drawing and the specification changes solve the problem. However, these changes represent new matter and are therefor not permitted entry. The previous claim rejections are maintained.

Conclusion

A determination as to the allowability of the claims cannot be made at this time due to the issues under 35 U.S.C. 112 and 37 C.F.R 1.83(a).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

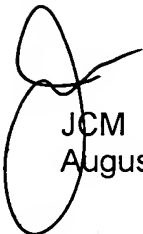
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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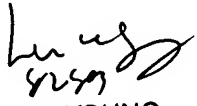
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



JCM
August 23, 2003



LEE YOUNG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700